

KUTAK ROCK LLP

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	Chapter 7
)	
DELTA CAREER EDUCATION)	Case No. 18-33822
CORPORATION, <i>et al.</i> , ¹)	
)	
Debtor.)	

**DEBTORS' MOTION FOR AN EXPEDITED HEARING ON DEBTORS' MOTION FOR
ENTRY OF AN ORDER (I) DIRECTING JOINT ADMINISTRATION OF
CHAPTER 7 CASES AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors (collectively, the "Debtors") respectfully state as follows in support of this motion (this "Motion"):

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (respectfully, the "Order"), (a) setting an expedited hearing at the Court's earliest convenience on the *Debtors' Motion for Entry of an Order (i) Directing Joint Administration of Chapter 7 Cases and (ii) Granting Related Relief* (the "Joint Administration Motion"); and

¹ The Debtors in these chapter 7 cases, along with the last four digits of each Debtor's federal tax identification number, include Delta Career Education Corporation (5135); Delta Educational Systems, Inc. (9702); National Career Education, Inc. (3855); Southwest Business Colleges, Inc. (3438); Creative Circus, Inc. (1026); Atlantic Coast Colleges, Inc. (4068); McCann Education Centers, Inc. (2761); Berks Technical Institute, Inc. (9439); McCann School of Business and Technology (2608); Miller-Motte Business College, Inc. (1751); Palmetto Technical College, Inc. (6130); Piedmont Business Colleges, Inc. (4202); Academy of Court Reporting, Inc. (3484); and The Miami-Jacobs Business College Company (9487).

(b) deeming the Debtors' notice of the hearing on the Joint Administration Motion as set forth herein to be adequate and appropriate notice under the circumstances.

2. On July 27, 2018, the Debtors filed the Joint Administration Motion to be heard by this Court on an expedited basis. Prompt entry of the relief requested in the Joint Administration Motion is necessary in order to allow the Debtors, the chapter 7 trustee, the Court and creditors and parties-in-interest to benefit from the efficiencies that will result therefrom. Accordingly, by this motion, the Debtors seek this Court's entry of an order setting an expedited hearing at the Court's earliest available time, to consider the Joint Administration Motion and deeming the *Debtors' Notice of Filing of Chapter 7 Petitions and Joint Administration Motion and of Proposed Hearing on Joint Administration Motion* as set forth on **Exhibit 1** annexed to **Exhibit A** attached hereto (the "Notice") to be adequate and appropriate notice under the circumstances. The Debtors further request that the requirement of filing a written response to the Joint Administration Motion is waived.

Jurisdiction, Venue, and Procedural Background

3. The United States Bankruptcy Court for the Eastern District of Virginia (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated July 10, 1984. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. The bases for the relief requested herein are sections 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and Rules 9013-1(M) and (N) of the Bankruptcy Local Rules for the Eastern District of Virginia (the “Local Rules”).

5. On July 26 and 27, 2018, the Debtors filed voluntary petitions for relief under chapter 7 of the Bankruptcy Code.

Basis for Relief

6. Local Rule 9013-1 allows the setting of a hearing on an expedited basis as requested herein. An expedited hearing on the Joint Administration Motion is appropriate under these circumstances.

7. Additionally, section 105(a) of the Bankruptcy Code provides this Court with the power to set an expedited hearing on the Joint Administration Motion. Section 105(a) states that a bankruptcy court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

Waiver of Memorandum of Points and Authorities

8. The Debtors respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as described in Local Bankruptcy Rule 9013-1(G).

Notice

9. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the Debtors’ secured creditor; (c) the United States Attorney’s Office for the Eastern District of Virginia; (d) the Internal Revenue Service; (e) the Debtors’ current banks; (f) the office of the attorneys general for the states in which the Debtors operated; and (g) any party that has requested notice pursuant to Bankruptcy

Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

10. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Order, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

/s/ Peter J. Barrett
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Certification

In support of the *Debtors' Motion for an Expedited Hearing on the "First Day Motions,"* and as required by Rule 9013-1(N) of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Virginia, the undersigned proposed counsel for the Debtors certifies as follows:

1. I am a member of the Bar of this Court.
2. I have carefully examined this matter and have concluded that there is a true need for an emergency hearing.
3. I have not created the emergency through the lack of diligence.
4. A *bona fide* effort to resolve the matters could not be made without a hearing.

/s/Peter J. Barrett

Exhibit A

Proposed Order

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**IN THE UNITED STATES BANKRUPTCY COURT
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In re:)	
)	Chapter 7
)	
DELTA CAREER EDUCATION)	Case No. 18-33822
CORPORATION, <i>et al.</i> , ¹)	
)	
Debtor.)	

ORDER SETTING AN EXPEDITED HEARING

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) setting an expedited hearing at the Court’s earliest convenience on the Debtors’ Joint Administration Motion; and (b) deeming the Debtors’ notice of the Joint Administration Motion and the hearing thereon to be adequate and appropriate notice under the circumstances; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated July 10, 1984; and that this Court may enter a final order consistent with Article III of the United

¹ The Debtors in these chapter 7 cases, along with the last four digits of each Debtor’s federal tax identification number, include Delta Career Education Corporation (5135); Delta Educational Systems, Inc. (9702); National Career Education, Inc. (3855); Southwest Business Colleges, Inc. (3438); Creative Circus, Inc. (1026); Atlantic Coast Colleges, Inc. (4068); McCann Education Centers, Inc. (2761); Berks Technical Institute, Inc. (9439); McCann School of Business and Technology (2608); Miller-Motte Business College, Inc. (1751); Palmetto Technical College, Inc. (6130); Piedmont Business Colleges, Inc. (4202); Academy of Court Reporting, Inc. (3484); and The Miami-Jacobs Business College Company (9487).

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth in this Order.
2. A hearing will be held on **August 1, 2018, at 2:00 p.m. prevailing Eastern Time** to hear and consider the Joint Administration Motion.
3. The form of the *Debtors' Notice of Filing of Chapter 7 Petitions and Joint Administration Motion and of Proposed Hearing on Joint Administration Motion* attached hereto as **Exhibit 1** (the "Notice") is approved.
4. As soon as practicable after the commencement of these chapter 7 cases, the Debtors shall serve notice of this Motion via hand, electronic mail, overnight delivery, or facsimile to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the Debtors' secured creditor; (c) the United States Attorney's Office for the Eastern District of Virginia; (d) the Internal Revenue Service; (e) the Debtors' current banks; (f) the office of the

attorneys general for the states in which the Debtors operated; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002.

5. The requirement under Local Rule 9013-1(G) to file a memorandum of law in connection with the Motion is waived.

6. The notice requirements of Local Rule 9013-1(M) are hereby waived for the Motion and the Joint Administration Motion.

7. Subject to the Debtors serving the Joint Administration Motion in accordance with this Order, the requirements of Local Bankruptcy Rule 9022-1(B) are hereby waived for the Motion and the Joint Administration Motion.

8. The requirement of filing a written response to the Joint Administration Motion is waived.

9. The endorsement requirement of Local Rule 9022-1(C) is hereby waived for the purposes of this Order.

10. A copy of this Order shall be separately docketed in each of the Debtors' chapter 11 cases.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

12. The Debtors and the appointed chapter 7 trustee are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

13. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2018
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

We ask for this:

/s/_____
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Exhibit 1

Notice

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In re:)	
)	Chapter 7
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**NOTICE OF FILING OF CHAPTER 7 PETITIONS AND
JOINT ADMINISTRATION MOTION AND OF PROPOSED HEARING ON JOINT
ADMINISTRATION MOTION**

PLEASE TAKE NOTICE THAT on July 26 and July 27, 2018, the above-captioned debtors (collectively, the “Debtors”) filed with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the “Court”), their respective voluntary petitions for relief under chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) commencing the above-captioned chapter 11 cases.

PLEASE TAKE FURTHER NOTICE THAT together with their chapter 7 petitions, the Debtors also requested an expedited hearing before the Court (the “Hearing”) to consider the *Debtors’ Motion for Entry of an Order (i) Directing Joint Administration of Chapter 7 Cases and (ii) Granting Related Relief* (the “Joint Administration Motion”).

PLEASE TAKE FURTHER NOTICE THAT the Court has scheduled the Hearing on **August 1, 2018, at 2:00 p.m., prevailing Eastern Time** in Courtroom 5100 of the United States

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Bankruptcy Court for the Eastern District of Virginia, Richmond Division, 701 East Broad Street, Richmond, Virginia, 23219.

PLEASE TAKE FURTHER NOTICE THAT a copy of the Joint Administration Motion may be viewed on the Court's website at <http://www.vaeb.uscourts.gov> in accordance with the procedures and fees set forth therein.

PLEASE TAKE FURTHER NOTICE THAT your rights may be affected. You should carefully read the Joint Administration Motion and discuss it with your attorney, if you have one in these chapter 7 cases. If you do not have an attorney, you may wish to consult with one.

PLEASE TAKE FURTHER NOTICE THAT if you do not want the Court to grant the relief requested in the Joint Administration Motion, or if you want the Court to consider your views on the Joint Administration Motion, then you or your attorney must attend the Hearing. If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Joint Administration Motion and may enter an order granting the relief requested in the Joint Administration Motion.

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